

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JAMES TOMPSON RIGGS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

No. 1:20-cv-000940-HBK

ORDER TAKING NO FUTHER ACTION ON  
ORDER TO SHOW CAUSE

ORDER GRANTING PLAINTIFF'S MOTION  
FOR LIMITED ENLARGEMENT OF TIME  
TO SERVE PROCESS

Doc. No. 8

Pending before the Court is Plaintiff's Response to the Court's Order to Show Cause, construed to also incorporate a motion for an enlargement of time to complete service of process, filed January 22, 2020. Doc. No. 8. On January 14, 2021, the Court directed Plaintiff to show cause within ten (10) days why the case should not be dismissed for lack of prosecution and/or provide proof of return of service of process on the Commissioner, or voluntarily dismiss the action. *See* Doc. No. 7. Plaintiff timely filed a response and explains that he did not know he was required to complete service of process. *See* Doc. No. 8 at 1. Plaintiff states he has not had formal legal training and that he takes opioid pain medication that interferes with his cognitive abilities. *Id.* Plaintiff further states that "after hours of internet search and instruction," he has the required documents and instructions" and requests more time to return the service of process forms. *Id.*

1 Plaintiff assures that he will now provide the service forms to the Court in a timely manner. *Id.*

2 Fed. R. Civ. P. 4(m) requires a plaintiff serve a defendant with process within 90 days after  
3 filing a complaint. Specifically, Rule 4(m) provides:

4  
5 If a defendant is not served within 90 days after the complaint is filed,  
6 the court – on motion or on its own after notice to the plaintiff—must  
7 dismiss the action without prejudice or order that service be made  
8 within a specified time. But if the plaintiff shows good cause for the  
9 failure, the court must extend the time for service for an appropriate  
10 period.

11 *Id.*

12 On July 9, 2020, the Court granted Plaintiff *in forma pauperis* status, directed the Clerk to  
13 issue summons and directed the U.S. Marshal to serve the Commissioner. *See* Doc. No. 3. The  
14 Clerk issued summons that same day. *See* Doc. No. 4. Attached to its Scheduling Order issued the  
15 same day (Doc. No. 5), was the Court’s “Order re Consent or Request for Reassignment” (Doc.  
16 No. 5-1, 5-2) and “Instructions for Service of Social Security Appeals” (Doc. No. 5-5) advising  
17 Plaintiff of what he needed to provide to the Clerk for the U.S. Marshal to effectuate service. Due  
18 to Plaintiff’s *pro se* status, the Court will grant Plaintiff an enlargement of time to complete the  
19 necessary forms so the U.S. Marshal can effectuate service. Plaintiff’s failure to timely return the  
20 service of process forms to the Clerk will result the dismissal of this action under Fed. R. Civ. P.  
21 41(d). *See White v. Commissioner of Social Security*, Case No. 2:13-cv-0660WBS-KJN, 2014 WL  
22 1027523 (E.D. Ca. March 17, 2014) (after permitting plaintiff another opportunity to return  
23 completed service forms, submitting a findings and recommendation of dismissal to the district  
24 court).

25 Accordingly, it is **ORDERED**:

26 1. No further action will be taken on the Court’s January 14, 2021 Order to Show Cause.

27 2. Plaintiff’s motion for enlargement of time (Doc. No. 8) is **GRANTED** to the extent that  
28 Plaintiff must submit completed service of process forms to the Court, along with the Consent to

1 Assignment or Request for Reassignment within **twenty-one (21) days** of the date on this Order.

2 3. No further enlargements of time will be permitted. Failure to comply with result in the  
3 dismissal of this action without further notice.

4 4. The **Clerk of Court** shall provide Plaintiff with a courtesy copy of the July 9, 2020  
5 Scheduling Order with all attachments (Doc. No. 5) for his use in completing the necessary forms  
6 with this Order.  
7

8  
9 IT IS SO ORDERED.

10  
11 Dated: January 28, 2021

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE